

**DOCKET NO. 577921**

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE TEXAS
COMMISSION	§	
	§	
VS	§	
	§	
VISIONS BAR INC.	§	
D/B/A VISIONS BAR INC.	§	ALCOHOLIC
PERMIT/LICENSE NO(s). N653129	§	
NL, PE	§	
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-08-4306)	§	BEVERAGE COMMISSION

**ORDER ADOPTING PROPOSAL FOR DECISION**

**CAME ON FOR CONSIDERATION** this the 8<sup>th</sup> day of December 2008, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Brenda Coleman. The hearing convened on September 12, 2008 and adjourned the same date. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on November 12, 2008. The Proposal For Decision was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. As of this date no exceptions have been filed.

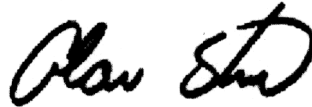
The Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein are denied.

**IT IS THEREFORE ORDERED** by the Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1 of the Commission Rules, that Respondent's conduct surety bond in the amount of \$5,000.00 be **FORFEITED**.

This Order will become final and enforceable on January 5, 2009 unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties in the manner indicated below.

**SIGNED** this the 8<sup>th</sup> day of December 2008, at Austin,  
Texas.



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Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

Administrative Law Judge  
State Office of Administrative Hearings  
6333 Forest Park Road, Suite 150-A  
Dallas, Texas 75235  
***VIA FACSIMILE (214) 956-8611***

Visions Bar Inc.  
d/b/a Visions Bar Inc.  
**RESPONDENT**  
4107 W Camp Wisdom Road  
Suite 225  
Dallas, TX 75237  
***VIA FIRST CLASS MAIL***

Sandra K. Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division

Dallas District Office

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**DALLAS OFFICE**  
**6333 Forest Park Road Suite 150a**  
**Dallas, Texas 75235**  
**Phone: (214) 956-8616**  
**Fax: (214) 956-8611**

DATE:

11/12/2008

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

06

REGARDING:

PROPOSAL FOR DECISION

DOCKET NUMBER:

458-08-4306FAX TO:JUDGE BRENDA S COLEMANFAX TO:

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SANDRA K. PATTON (TEXAS ALCOHOLIC BEVERAGE  
COMMISSION)

(713) 426-7965

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ALAN STEEN (TEXAS ALCOHOLIC BEVERAGE  
COMMISSION)

(512) 206-3350

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Visions Bar Inc. d/b/a Visions Bar Inc.

VIA REGULAR MAIL

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Lou Bright Director of Legal Services (Alcoholic Beverage  
Commission, Texas)

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**NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT LEIGH NOLAN(lda) (214) 956-8616**

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# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

November 12, 2008

Alan Steen  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

**VIA FACSIMILE 512/206-3203**

**RE: Docket No. 458-08-4306 Texas Alcoholic Beverage Commission Vs. Visions Bar Inc. D/B/A Visions Bar Inc.**

Dear Mr. Steen:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in cursive script that reads "Brenda Coleman".

Brenda Coleman  
Administrative Law Judge

BC/lan  
Enclosure

xc Sandra Patton, Staff Attorney, Texas Alcoholic Beverage Commission, **VIA FACSIMILE 713/426/7965**  
Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, **VIA FACSIMILE 512/206-3498**  
Visions Bar Inc. D/B/A Visions Bar Inc., **VIA REGULAR MAIL 4107 W. Camp Wisdom Road Suite 225**  
**Dallas, Texas 75237**

**SOAH DOCKET NO. 458-08-4306**

**TEXAS ALCOHOLIC BEVERAGE  
COMMISSION,  
Petitioner**

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**BEFORE THE STATE OFFICE**

**V.**

**OF**

**VISIONS BAR INC. D/B/A  
VISIONS BAR INC.,  
Respondent**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The Staff of the Texas Alcoholic Beverage Commission (Commission; or Petitioner) brought this forfeiture action against Visions Bar Inc. (Respondent). The Commission sought forfeiture of Respondent's conduct surety bond, alleging that Respondent's permits were canceled for cause on May 16, 2008. Respondent failed to appear at the hearing, and the hearing proceeded on a default basis. The Administrative Law Judge (ALJ) recommends forfeiture of Respondent's conduct surety

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

The Commission has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5 and § 11.38. The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters relating to conducting a hearing in this proceeding, including the preparation of a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003

On August 20, 2008, the Commission issued its notice of hearing setting the matter for hearing on September 12, 2008. The notice of hearing was sent by regular mail and certified mail, return receipt requested, to Respondent at Respondent's last known address. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the

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PROPOSAL FOR DECISION

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statutes and rules involved; and a short, plain statement of the matters asserted, as required by TEX. GOV'T CODE ANN. § 2001.052. The notice of hearing also contained the following language in 12-point or larger boldface type: "If a party fails to appear at the hearing, the factual allegations in the notice of hearing will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default." The US Postal Service attempted to deliver the certified mail on August 21, 2008, and left a notice. The certified mail was unclaimed by Respondent.

On September 12, 2008, a hearing convened before SOAH ALJ Brenda Coleman. The Commisison was represented at the hearing by Sandra Patton, Staff Attorney. Respondent did not appear and was not represented at the hearing. Petitioner presented evidence regarding notice and jurisdiction. The record closed on that same date.

## II. DISCUSSION

Based on the failure of Respondent to appear at the hearing, Petitioner requested that the default provisions of 1 TEX. ADMIN. CODE (TAC) § 155.55 be invoked. The ALJ finds that Petitioner issued notice in compliance with 1 TAC §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TAC § 155.55, the allegations presented in the notice of hearing are deemed admitted as true. Accordingly, the ALJ has incorporated these allegations into the Proposed Findings of Fact below. Based on the deemed factual findings in this case, Respondent's conduct surety bond should be forfeited.

## III. FINDINGS OF FACT

1. Visions Bar Inc. (Respondent), held a Private Club Registration Permit, a Private Club Late Hours Permit and Beverage Cartage Permit, issued by the Commission, for the premises located at 4107 W. Camp Wisdom Road, Suite 225, Dallas, Dallas County, Texas.
2. Respondent has posted a conduct surety bond. The bond is Commission Conduct Surety Bond Number 3336541, dated February 9, 2007. Respondent, acting through Michael

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Caldwell, executed the bond as principal. SureTec Insurance Company is the surety. The bond is in the amount of \$5,000.00 and is payable to the State of Texas.

- 3 Respondent's permits were canceled for cause by the Commission on May 16, 2008
4. On June 26, 2008, the Commission notified Respondent that it intended to seek forfeiture of Respondent's conduct surety bond. Respondent requested a hearing on the matter.
5. On August 20, 2008, the Commission issued its notice of hearing by regular mail and certified mail, return receipt requested, to Respondent at Respondent's last known address, setting the hearing on the merits for September 12, 2008.
6. The US Postal Service attempted to deliver the certified mail on August 21, 2008 and left a notice. The certified mail was unclaimed by Respondent.
7. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
- 8 The notice of hearing also contained the following language in 12-point or larger boldface type: "If a party fails to appear at the hearing, the factual allegations in the notice of hearing will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default."
9. A hearing convened before SOAH ALJ Brenda Coleman on September 12, 2008. The Commission appeared through its Staff Attorney, Sandra Patton. Respondent did not appear and was not represented at the hearing. The record closed on that same date.

#### IV. CONCLUSIONS OF LAW

- 1 The Commission has jurisdiction over this matter pursuant to Code ch. 5 and § 1.11, as well as 16 TEX. ADMIN. CODE (TAC) § 33.24.
- 2 SOAH has jurisdiction to conduct the hearing in this matter and to issue a proposal for decision containing findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice of the hearing was effected on Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001, 1 TEX. ADMIN. CODE (TAC)

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§ 155.55 and 16 TAC § 37.3

4. A default judgment should be entered against Respondent pursuant to 1 TAC § 155.55.
5. Respondent's permits were canceled for cause by the Commission on May 16, 2008
6. The conduct surety bond posted by Respondent should be forfeited. Code § 11.11 and 16 TAC § 33.24 (j).

**SIGNED November 12, 2008.**

  
**BRENDA COLEMAN**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**